

**BLM EASTERN STATES
DECISION RECORD**

**ADDITION OF TERMS, CONDITIONS, AND STIPULATIONS FOR RENEWAL OF
HARDROCK MINERAL LEASES MNES 01352 and MNES 01353**

BLM NEPA #: DOI-BLM-ES-030-2018-0002-EA

SUMMARY

The Bureau of Land Management (BLM) is renewing the hardrock mineral leases MNES 01352 and MNES 01353, which encompass approximately 4,865 acres of Federal minerals in the Superior National Forest (SNF) in Lake and St. Louis Counties, Minnesota. The leases are under Federal surface managed by the SNF, except for approximately 250 acres of private surface, which was acquired in 2010 by the South Kawishiwi Association, LLC (SKA) through a land exchange with the Forest Service. The SKA acquired the land subject to the terms and conditions of the existing lease MNES 01352.

The leases are currently held by Franconia Minerals (US) LLC, a wholly owned subsidiary of Twin Metals Minnesota LLC (collectively TMM or lessee). Leases MNES 01352 and MNES 01353 currently contain identical terms and conditions, including the lessee's right to a non-discretionary third renewal of the leases for a ten-year period under such terms and conditions as the Secretary of the Interior, acting through the BLM, may prescribe.¹ The Forest Service, as the surface management agency, may also propose new or adjusted stipulations at each renewal to protect surface resources.

TMM's predecessors in interest timely filed for two previous renewals of leases MNES 01352 and MNES 01353, and the BLM renewed the leases in 1989 and 2004. The lessee submitted its application to renew the leases for a third time in 2012. Renewal of these leases is governed by the relevant statutes, the BLM's regulations at 43 C.F.R. Subpart 3511, and the relevant prior lease terms. The lessee is currently in good standing.

In December 2017, the United States Department of the Interior's Office of the Solicitor issued a legal opinion (M-37049²) concluding that, while the United States maintains discretion to impose reasonable new or readjusted terms, conditions, and stipulations in the lease agreements, TMM has a non-discretionary right to a third renewal. This is because the renewal terms of the 1966 leases, including those pertaining to renewal, were carried forward in the renewed leases in both 1989 and 2004 and remain operative today. Because the lessee has a right to a renewal of these leases for the third term, the BLM does not have the discretion to deny the renewal application.

¹ See Solicitor's Opinion M-37049, "Reversal of M-37036, 'Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)'" (Dec. 22, 2017), available at <https://www.doi.gov/sites/doi.gov/files/uploads/m-37049.pdf>.

² *Id.*

In processing the lessee's application for a third renewal, the BLM and the Forest Service have exercised their discretion to impose reasonable new terms and conditions in this third lease renewal, and here propose to update the terms and conditions in accordance with the current regulations, to include additional stipulations to further protect the environment and surface resources, to update the royalty rate, and to include provisions to encourage diligent development. The BLM prepared these lease renewal documents utilizing the BLM Standard Form 3520-7 (August 2016) as a basis to modernize the standard lease terms. The BLM then edited the standard form at various places to better fit its needs in this individual case, and both the BLM and the Forest Service included customized stipulations in Section 14.

NATIONAL ENVIRONMENTAL POLICY ACT ANALYSIS

The Proposed Action has been reviewed in accordance with the National Environmental Policy Act of 1969 (NEPA), and includes stipulations to avoid or minimize adverse effects to resources to the maximum extent practicable.

Purpose and Need of the Proposed Action: In accordance with the Federal Lands Management Policy Act of 1976, as amended, the BLM manages public land on the basis of multiple use and sustained yield. The agency accepts and reviews applications for the development of Federal mineral resources where land use plans designate those lands as available for mining. To facilitate environmentally responsible minerals development and to meet all applicable environmental laws and regulations, the BLM and any surface managing agency involved consider operational and surface use stipulations to include in mineral leases to protect natural and cultural resources that may be affected by mineral exploration activities. As a non-discretionary right in accordance with the prior lease terms, the BLM will grant the lessee a third renewal in this action. However, the BLM and the Forest Service, the surface managing agency here, retain the authority to add reasonable new stipulations to the leases, as well as to adjust existing terms and conditions to meet all regulatory requirements and to protect surface resources as necessary.

The purpose of the Proposed Action is, therefore, for BLM to grant the leases with the appropriate adjustment of terms, conditions, and stipulations that the BLM and Forest Service deem appropriate for resource protection. The need of the Proposed Action is to fulfill the legal obligation provided in the original 1966 leases to grant a third renewal, under the terms, conditions, and stipulations that the BLM and Forest Service may prescribe for protection of the surface lands and natural resources in the area.

Decision to be Made: The BLM's proposed action here is solely whether to issue the renewed leases with the same terms and conditions as were included in the 2004 leases, and thus maintain the status quo, or to renew the leases with added and adjusted terms, conditions, and stipulations that the BLM and the Forest Service deem appropriate for the conservation and protection of natural and cultural resources, under the Proposed Action.

The Proposed Action does not authorize any mine plan of operations or allow any specific surface use, nor does it include any reauthorization of or change to any prior-approved plan of operations or future plan of operations for exploration and development of minerals on the leased lands. If, in the future, the lessee decides to explore or develop the mineral resources governed

by these leases, the lessee will be required to submit a proposed plan of operation to the BLM. The BLM and the Forest Service (as the surface managing agency) will evaluate the proposal, using the National Environmental Policy Act procedures and other applicable laws, regulations and procedures governing this type of plan evaluation.

Scope of the Analysis: Because the Proposed Action does not authorize (or reauthorize or change) any plan of operations or allow any specific surface use, for exploration and development of minerals on the leased lands, the EA did not include a detailed analysis of the development of a mine on these leases, or other exploration related surface uses. Rather, the analysis is limited to the impacts to the human environment of the lease renewals with the same terms and conditions as were included in the existing leases (under the No-Action Alternative) or with adjusted terms, conditions, and stipulations included in the Proposed Action. The Proposed Action contains changes to the lease terms that will further protect the environment and surface resources. The EA does not include analysis of the changed lease terms and conditions that do not impact the human environment, such as the royalty schedules.

Public Involvement: The BLM posted the draft EA on the BLM's ePlanning website, on December 18, 2018. A 30-day comment period was announced, with a closing date January 22, 2019. Due to issues with the availability of the ePlanning website, BLM extended the public comment period to January 30, 2019. The BLM received 38,470 comments via the ePlanning website, and with the addition of the emailed and mailed comments, the BLM received a total of 38,905 comments. Many of the emailed comments were submitted through ePlanning and resubmitted by email. Of the 38,905 comments, 34,222 were form letters, with one form letter received 20,963 times. The form letters were largely identical, with a select few having additional substantive comments. The review period was sufficient as demonstrated by the volume of comments received within the 41-day comment period and the depth of some of the comments from some stakeholders.

All substantive comments, including those in the form letters, were categorized in the BLM's database. A representative of each substantive issue is included in Appendix C of the EA, and the issue discussed.

The vast majority of the comments expressed opposition to renewing the federal hardrock leases. These opposing comments generally cited the potential ecological degradation of the Boundary Waters Canoe Areas Wilderness and its watershed and socio-economic degradation as reasons for this opposition. A few comments focused on the clarity and suitability of the draft EA or the proposed stipulations. A summary of the comments and the BLM's responses to substantive comments can be found in Appendix C.

The primary changes to the EA and the lease terms as a result of public input are as follows:

- The BLM clarified Chapters 1 and 2 as to the purpose and need for the Proposed Action and the scope of the analysis, in particular clarifying that the BLM is obligated to renew the leases for a third time, and that if a mining proposal is received, the BLM and Forest Service will conduct a detailed NEPA review of the impacts of mining at that time.
- In response to concerns about possible environmental impacts of mining, the BLM added a lease term (Stipulations Section 14(a)) stating the lessee's right to mine and produce the

minerals is contingent upon both the BLM and the Forest Service approving a mine plan of operations that meets all statutory and regulatory requirements and appropriately mitigates environmental impacts. Furthermore, the BLM added a stipulation that the BLM reserves the right to disapprove a mining plan of operation if it does not meet the requirements in the lease terms and the applicable statutes or regulations. (Stipulation section 14(a)).

- The BLM clarified Table 1 and much of Chapter 3 on the expected impacts of changing the terms, conditions, and stipulations.
- The BLM modified the stipulation allowing for tribal resource surveys, attaching a 45-day time limit for scheduling surveys.
- The BLM added a stipulation stating that the agencies will invite the Chippewa Bands to recommend reclamation practices following exploration activities.
- The Forest Service modified the surface stipulations for clarity and internal consistency.
- The BLM added language to the EA and to the lease forms addressing future renewals of these leases, in response to questions about the Forest Service role upon future renewal of the leases. One new lease term clarifies the Forest Service role (Stipulations Section 14(i)(8)), and other lease terms require diligent development of the leases, to limit the amount of time the lessee can hold the leases without development (Stipulations Section 14(b)).

Alternatives: The EA analyzed two alternatives: the Proposed Action and the No Action Alternative.

Proposed Action: Under the Proposed Action, BLM would readjust some of the terms of leases MNES 01352 and MNES 01353 and would add stipulations, applicable to exploration, drilling, and other surface use activities, to protect the environment and surface resources. The below lists the major changes to the leases. A complete list of proposed stipulations impacting surface resources is found in the EA, Appendix A, and is discussed in detail in Chapter 2 of the EA.

The new lease renewals under the Proposed Action no longer allow casual use of the surface without prior approval of the agencies. An important change, as compared to the No Action Alternative, is a new lease stipulation with further protections for the surface environment at Section 14(a)(1). This new term states that the lessee's right to mine and produce the minerals is contingent upon both the BLM and the Forest Service approving a mine plan of operations that meets all statutory and regulatory requirements and appropriately mitigates environmental impacts. Furthermore, the BLM added a stipulation in this section, not present in the current leases, stating that the BLM reserves the right to disapprove a mining plan of operation if it does not meet the requirements in the lease terms and the applicable statutes or regulations. Another change in the Proposed Action, as compared to the No Action Alternative, is the addition of a provision allowing for tribal resource surveys, attaching a 45-day time limit for scheduling surveys, and the addition of a stipulation stating that the agencies will invite the Chippewa Bands to recommend reclamation practices following exploration activities. (Stipulation section 14(e)).

The Proposed Action, in contrast to the No Action Alternative, also includes the addition of stipulations provided by the Forest Service specifically addressing various surface resources,

such as land, water and forest uses. These stipulations also prohibit strip and surface mining, which the No Action Alternative allows under authorization of the Forest Service. Overall, the stipulations provided by the Forest Service are more protective of the environment than the No Action Alternative, while still allowing the potential for approval of a mine plan of operations. The BLM added language to the EA and to the lease forms addressing future renewals of these leases, in response to questions about the Forest Service role upon future renewal of the leases. Stipulations Section 14(i)(8) clarifies the Forest Service role in the next renewal in conjunction with the new diligence requirement at Section 14(b). The Section 14(b) provision on diligent development of the leases limits the amount of time the lessee can hold the leases without progressing toward development.

No Action Alternative: Under the No Action Alternative, the leases would be renewed with the same terms and conditions as in the existing leases. The No Action Alternative was created to demonstrate the true change in impacts should the leases be renewed with the additional and adjusted terms and conditions, in comparison to the impacts under the renewal of the leases with the same terms and conditions as the current leases.

Level of NEPA: Lease renewals are one of the actions included in the BLM's list of actions eligible for approval under a Categorical Exclusion. In this instance, however, the BLM determined that an EA was appropriate due to the scope of the discretionary action—the incorporation of additional lease terms and conditions and the adjustment of existing terms and conditions—in this non-discretionary action of renewing the leases, and the level of public interest. An environmental assessment was determined appropriate for this project, to assess the limited impacts from the changed terms and conditions and to solicit public comment on the proposed changes.

Federal Agency Coordination:

USFS

The BLM has coordinated with the United States Forest Service during the preparation of the EA due to the potential for future impacts to the surface lands. The BLM incorporated the USFS's suggested stipulations into the lease terms and conditions. To ensure proper communication and coordination between the BLM and the USFS, both Agencies have designated project managers to ensure close coordination. Additionally, BLM has had numerous meetings with USFS over the lifespan of the project and USFS reviewed comments submitted by the public and had an opportunity to comment on the draft and final EA. The BLM and the USFS fulfilled their obligations in preparing the EA.

THE NPS

The BLM has contacted the National Park Service due to the proximity to Voyageur's National Park. The NPS has only requested to be kept informed of the BLM's Hardrock Minerals actions of the Superior National Forest.

Consultations: All required consultations were conducted. Chapter 5 of the EA details the parties with whom the BLM consulted or coordinated.

DECISION

It is my decision to select the Proposed Action, which is to renew the leases with the adjusted terms, conditions and stipulations, as compared to the terms, stipulations and conditions contained in the existing leases (the No Action Alternative). The terms, conditions and stipulations in the Proposed Action are reasonable adjustments to the lease terms, that the BLM and the Forest Service deem appropriate for the conservation and protection of natural and cultural resources.

RATIONALE FOR DECISION

I have selected the Proposed Action because I have determined that it best fits the purpose and need for action as presented in the EA. In deciding to select the Proposed Action, I have reviewed the M-37049 Solicitor's Opinion, the EA, the comments submitted on the draft EA, and the BLM FONSI. I have considered the potential impacts presented within these documents. I have weighed the context and intensity of the potential impacts against the Purpose and Need for the Proposed Action. The terms, conditions, and stipulations in the Proposed Action reasonably update and adjust the lease terms as is appropriate for the conservation and protection of natural and cultural resources. The inclusion of the operations provisions requires that both the BLM and the Forest Service must approve a mine plan of operations before any operations may take place, and that the MPO must meet all statutory and regulatory requirements and appropriately mitigate environmental impacts to gain approval, helping to set up a proper process for the review of an MPO to be submitted in the future.

The lease renewals' revised terms and conditions also include the addition of a diligent development requirement and changes to the royalty provisions. While not addressed in the EA, the inclusion of the diligence provision encourages timely development of the resources. Under the revised lease terms, Twin Metals will have ten years to submit a mine plan of operations to the BLM, obtain all necessary permits, and meet certain milestones for mine construction. In addition, the BLM has increased the minimum annual royalty payments to reflect inflation from 1966 to today to modernize those payments. Regarding the royalty rate that would be applied to mineral production, the BLM has modernized the royalty approach from the original 1966 leases in Section 14(f), (g), and (h) of the lease renewals. In Section 14(f), the BLM has applied the existing royalty rate to all minerals under the lease, rather than maintaining a separate royalty rate for the minerals that are associated with the copper and nickel. These associated minerals include platinum group metals. This royalty approach accounts for all of the minerals the company plans to mine, their individual market values, and their accessibility due to modern technologies. The new royalty provisions also forecast a future increased royalty rate if the lessee meets the diligence requirements and qualifies for another renewal. To prepare for that possibility, Section 14(h) in the lease renewals requires the lessee to submit the necessary information to the BLM to address the existence of excessive overriding royalties currently in place.

Scope of the Action: The scope of the Proposed Action includes the renewal of the leases. It does not include approval of operations under the leases. The lease renewal is non-discretionary. I do however have the authority and may utilize discretion over the inclusion of terms and conditions within the lease. This decision also does not include a reauthorization of or a change to any prior-approved plan of operations or future plan of operations for exploration for and

development of minerals on the leased lands. If the lessee submits a Mining Plan of Operations, the BLM and the Forest Service would prepare a comprehensive analysis prior to any approval or disapproval of mining operations.

Compliance with Applicable Laws and Land Use Plans: I have determined that the Proposed Action has been analyzed in compliance with major environmental laws that are pertinent to this decision. All necessary and required analysis, including under the National Historic Preservation Act (NHPA) and Endangered Species Act (ESA) are complete. The Proposed Action is in conformance with the 2004 Forest Plan, which provides for exploration (prospecting) and development (mining) of minerals in an environmentally sound manner.

The Proposed Action is also in conformance with the BLM's *Minnesota Management Framework Plan* (MMFP) (1982), which the BLM encourages applications for prospecting and leasing of Federally owned mineral estate.

Consideration of Mitigation Measures: I have concluded that the Proposed Action, which prescribes additional terms and conditions, does not require mitigation. Mitigation is a tool used to add measures to protect natural resources from the potential environmental impacts of the activities that may be proposed pursuant to the leases. The Proposed Action—modification of terms, conditions, and stipulations to better protect natural resources—is expected to have a positive overall environmental impact as compared to renewal of the leases with the current terms. Therefore, I do not consider mitigation necessary in this instance.

Finding of No Significant Impact: The Proposed Action would not have a significant impact to the human environment or result in unnecessary or undue degradation of public lands and resources. A FONSI is sufficient and the preparation of an Environmental Impact Statement is not required. The FONSI is included as Attachment A.

AUTHORITIES

The authority for this decision is contained in the following:

- The Act of June 30, 1950, which authorizes the BLM to permit prospecting and development of hardrock minerals on the public domain lands within the national forests of Minnesota with the consent of the Forest Service (16 U.S.C. § 508b);
- 16 U.S.C. § 520 and the Reorganization Plan No. 3 of 1946, Section 402, which collectively authorize the BLM to permit prospecting and development of mineral resources on acquired lands within the national forests of the United States with the consent of the Forest Service;
- The Federal Land Policy and Management Act of 1976, as amended;
- Title 43 Code of Federal Regulations §3500 et seq - Leasing of Solid Minerals other than Coal and Oil Shale; and
- Title 5, Subchapter II, §558(c) of the Administrative Procedure Act of 1946

IMPLEMENTATION OF TERMS/CONDITIONS/STIPULATIONS

The revised leases, with the terms and conditions, which are identified and analyzed in the Proposed Action, would apply. These leases are attached to this decision record (Attachment B).

 5-15-19
Karen E. Mouritsen Date
State Director, BLM Eastern States

FINAL DECISION OF THE AGENCY

I concur with the State Director's decision to renew hardrock mineral leases MNES 01352 and MNES 01353 with the readjusted terms, conditions, and stipulations, as outlined in the enclosed documents. My concurrence in this decision makes it a final agency action for the Department of the Interior and, in accordance with the regulations at 43 C.F.R. § 4.410(a)(3), is not subject to appeal to the Interior Board of Land Appeals under departmental regulations at 43 C.F.R. Part 4.

Concurred in by:

 5/15/19
Joseph R. Balash Date
Assistant Secretary
Land and Minerals Management
U.S. Department of the Interior

FINDING OF NO SIGNIFICANT IMPACT
Bureau of Land Management
Eastern States
Northeastern States District Office

Project Title: Addition of Terms and Conditions to Renewed Hardrock Leases, MNES 01352 and MNES 01353 Environmental Assessment

EA Number: DOI-BLM-Eastern States-0030-2018-0002-EA

Lease/Serial/Case File No.: MNES 01352 and MNES 01353

Applicant:

Franconia Minerals (US) LLC
380 St. Peter Street Suite. 705
St. Paul, MN 55102

Location of Proposed Action: Superior National Forest, Lake and St. Louis Counties, Minnesota

BACKGROUND

The Bureau of Land Management (BLM) first issued hardrock mineral leases MNES 01352 and MNES 01353 to the International Nickel Company in 1966. These leases encompass approximately 4,865 acres of Federal minerals in the Superior National Forest (SNF) in Lake and St. Louis Counties, Minnesota (Figure 1). The leases are under Federal surface managed by the SNF, except for approximately 250 acres of private surface, which was acquired in 2010 by the South Kawishiwi Association, LLC (SKA) through a land exchange with the Forest Service. The SKA acquired the land subject to the terms and conditions of the existing lease MNES 01352.

The leases are currently held by Franconia Minerals (US) LLC, a wholly owned subsidiary of Twin Metals Minnesota LLC (collectively TMM or lessee). The existing leases MNES 01352 and MNES 01353 contain identical terms and conditions, including a non-discretionary right of the lessee to renew the leases for a third ten-year period under such terms and conditions as the Secretary of the Interior, acting through the BLM, may prescribe. The Forest Service, as the surface management agency, may also prescribe new or adjusted stipulations at each renewal for protection of surface resources.

TMM's predecessors in interest timely filed for two previous renewals of leases MNES 01352 and MNES 01353, and the BLM renewed the leases in 1989 and 2004. The lessee submitted its application to renew leases MNES 01352 and MNES 01353 for a third time in 2012. Renewal of these two hardrock mineral leases is governed by the relevant statutes, the BLM's regulations at 43 C.F.R. Subpart 3511, and the relevant prior lease terms. The lessee is currently in good standing.

In December 2017, the United States Department of the Interior's Office of the Solicitor issued a legal opinion (M-37049), concluding that the original 1966 leases provide TMM with a non-discretionary right to a third renewal, subject to readjusted terms and conditions as allowed by the 1966 leases. The opinion concluded further that, while the United States maintains discretion

to impose reasonable new or readjusted terms and conditions in the lease renewal agreements, the BLM does not have the discretion to deny the renewal application.

The BLM's decision, as analyzed in the *Addition of Terms and Conditions to Renewed Hardrock Leases, MNES 01352 and MNES 01353 Environmental Assessment* (henceforth called the "EA"), is whether to issue the renewed leases with the same terms and conditions as the existing leases, under the No-Action Alternative, or to renew the leases with added and adjusted terms and conditions that the BLM and the Forest Service deem appropriate for the conservation and protection of natural and cultural resources. BLM did not analyze in the EA the changes to the lease stipulations and terms that do not impact the human environment, such as the changes to the royalty schedule.

The lessee has previously submitted, and the BLM has previously approved, exploration plans of operations for exploration of minerals on the leased lands. However, this BLM decision does not include a reauthorization of, or change to, any prior-approved plan of operations or an authorization of any future plans of operations for exploration and development of minerals on the leased lands, including a mining plan of operations. Looking forward to the future, prior to the commencement of any mining operation, Twin Metals would need to submit a proposed mine plan of operation to the BLM, Forest Service, and the State of Minnesota Department of Natural Resources (MDNR) for their review and approval. Before any such approval, the BLM and Forest Service would prepare an Environmental Impact Statement (EIS), and the MDNR would prepare an environmental review document pursuant to the Minnesota Environmental Policy Act of 1973 (MEPA). The Federal and State agencies may prepare a joint EIS to minimize duplication of effort (40 CFR § 1506.2) and to facilitate effective public participation.

FINDING OF NO SIGNIFICANT IMPACT

Based upon the information contained in the EA and all other information available to me, it is my determination that: (1) the implementation of the Proposed Action will not have significant environmental impacts beyond those already addressed in the 2004 *Superior National Forest Land and Resource Management Plan* (Forest Plan); (2) the Proposed Action is in conformance with the 2004 Forest Plan, which provides for exploration (prospecting) and development (mining) of minerals in an environmentally sound manner; (3) the Proposed Action is in conformance with the BLM's *Minnesota Management Framework Plan* (MMFP) (1982), in which the BLM encourages applications for prospecting and leasing of federally owned mineral estate; and (4) the Proposed Action does not constitute a major federal action having a significant effect on the human environment. Therefore, an Environmental Impact Statement (EIS) or a supplement to the existing EIS is not necessary and will not be prepared.

The Proposed Action, which involves adding to and readjusting lease terms for a non-discretionary lease renewal, does not itself authorize any on-the-ground activities and has been designed to avoid or minimize environmental impacts from any future proposed mining activities to the extent feasible. This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27) as outlined below, both with regard to the context and to the intensity of the impacts described in the Environmental Assessment (EA).

The current BLM regulations that govern the process for renewing these leases are set forth in 43 CFR § 3511.

Context

The BLM proposes to readjust some of the terms of leases MNES 001352 and MNES 001353 and to add stipulations, applicable to exploration, drilling, and other surface use activities to protect the environment and surface resources. The list of proposed stipulations analyzed in the EA can be found in Appendix A. These stipulations (in the Proposed Action) restrict occupancy of National Forest System lands by the lessee only to those lands and waters designated in a mining plan of operations, approved by both the BLM and Forest Service. Beyond that, the proposed stipulations require the lessee to meet all applicable laws and regulations, to appropriately mitigate environmental impacts, to follow all the protective measures prescribed in the Forest Plan, and to obtain Forest Service approval before disturbing the ground or using water. The proposed stipulations also prohibit strip mining or surface mining altogether, and allow the BLM to disapprove a mining plan of operation that does not meet environmental statutes or regulations. All of these proposed stipulations will provide additional protection for the SNF lands and waters, as compared to the No Action Alternative, which would involve issuing the non-discretionary third lease renewal with the current lease terms.

Most of the leased area falls within the General Forest Management Area, as described in the Forest Plan, while the shores of Birch Lake are in the Recreation Use in a Scenic Landscape Management Area. This portion of the national forest and some of the non-Federal lands therein have been used for mineral exploration for the past several decades.

Because renewing the leases is a nondiscretionary action, both the proposed lease readjustment and the No-Action Alternative may result in continued mineral exploration. Existing approved operating plans remain valid, but any additional mineral exploration operations would require an updated plan of operations for BLM approval and would be subject to additional environmental review. Neither alternative would result in commercial mining without additional substantial environmental review.

Intensity

1. Impacts that may be both beneficial and adverse.

Chapters 3 and 4 of the EA identify the impacts that are anticipated to occur from implementation of the Proposed Action. The Proposed Action, which involves readjusting lease terms for a non-discretionary lease renewal, does not itself authorize any on-the-ground activities.

Chapter 3 on environmental effects describes that the additional stipulations in the Proposed Action will provide an additional benefit to the environment, as compared to the No Action Alternative, as the stipulations require any future proposed mining plan of operation to meet all applicable environmental statutes and regulations and require appropriate mitigation of environmental impacts. Other added stipulations in the Proposed Action that would provide a beneficial impact, as compared to the No Action Alternative, include a prohibition on surface mining, a restriction on occupancy of National Forest System lands by the lessee to only those lands approved in a mining plan of operations, and a requirement for the lessee to follow all the

protective measures prescribed in the Forest Plan and to obtain Forest Service approval before disturbing ground or using water.

Chapter 4 on cumulative effects describes that the Proposed Action's incorporation of additional protective stipulations, when considering other projects in the area or the potential future mining on the leases being renewed here, does not cumulatively create any greater negative effect on shared resources than would the No-Action Alternative. The Proposed Action may have a beneficial effect on some resources in contrast to the No-Action Alternative.

2. *The degree to which the proposed action affects public health and safety.*

The Proposed Action, which involves readjusting lease terms for a non-discretionary lease renewal, does not authorize any on-the-ground activities and therefore does not affect public health and safety. Moreover, the stipulations in the Proposed Action restrict occupancy of National Forest System lands by the lessee to no more than that approved by the BLM and the Forest Service in a plan of operation, and further require that all mining plans of operation follow all applicable statutory and regulatory requirements. The stipulations in the Proposed Action also require the mining plan of operation to take all mitigation measures necessary to appropriately mitigate environmental impact, and allow the BLM to disapprove a mining plan of operation if it does not meet statutory or regulatory impacts. All of these provisions will ensure that any future proposed mining activities will not affect public health and safety. Beyond that, the stipulations require the lessee to follow all the protective measures prescribed in the Forest Plan and to obtain Forest Service approval before disturbing ground or using water, which would further ensure protection of public health and safety.

3. *Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

The leases contain wetlands, rivers, and lakes. There are thirteen Federal or state designated recreation sites used for recreational activities within or in close proximity to the leased area. The leases are within the Rainy River watershed and adjacent to Birch Lake and the Boundary Waters Canoe Area Wilderness (BWCAW), which is the most heavily visited Federal wilderness area in the United States. Based on these considerations, the terms of the leases in the Proposed Action require that any future mining project must protect water and hydrological resources. While the Proposed Action does not itself authorize any mining activities, the lease terms in the Proposed Action provide that any future proposed mining plan of operations must minimize ground-disturbing activity within the entire leased area, including within the designated recreation areas.

Six known archaeological sites are located within or adjacent to the boundaries of leases MNES 01352 and MNES 01353. As stated previously, since renewal of the leases would not themselves authorize any ground disturbance, there would be no adverse effect to historic or cultural resources from the Proposed Action. Stipulations in the Proposed Action allowing tribal cultural surveys before the agencies approve any ground-disturbing activities and inviting tribal input into reclamation planning provide a beneficial impact to cultural resources over the No-Action alternative. If any proposed mining plan of operations is filed in the future, the added stipulations

of the Proposed Action, applicable to exploration, drilling, and other surface use activities, are expected to aid in the protection of these unique areas and resources.

4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial*

Mining activity in and around the Superior National Forest is considered socially controversial. The renewal of the leases themselves has been opposed by many members of the public. However, under NEPA caselaw, the meaning of the term “controversial” here refers to controversy existing over the nature of the effects of the action, such as scientific controversy. The meaning does not encompass public opposition to or disagreement with the Proposed Action. See *Heartwood, Inc. v. U.S. Forest Serv.*, 380 F.3d 428, 432 (8th Cir. 2004) (“The term ‘controversial’ refers to the existence of a ‘substantial dispute ... as to the size, nature, or effect of the major federal action rather than to the existence of opposition to a use.’”) (internal citations omitted); see also *Fund for Animals v. Frizzell*, 530 F.2d 982, 988 n.15 (D.C. Cir. 1975) (per curiam) (“certainly something more is required” for a highly controversial finding “besides the fact that some people may be highly agitated and be willing to go to court over the matter.”).

The degree of effects on the quality of the human environment from the Proposed Action, which readjusts the lease terms when renewing the leases, is not likely to be highly controversial scientifically or as to the size, nature, or effect of the action. This is due to the fact that the leases themselves do not authorize any on-the-ground activity and the degree of the effects on the quality human environmental is only the difference between the existing lease terms and the readjusted lease terms, which are more environmentally protective. Moreover, future on-the-ground activity must be evaluated, including in compliance with NEPA, and approved by the BLM and Forest Service, must meet all statutory and regulatory requirements, and must appropriately mitigate environmental impacts.

5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

The scope of the EA is to provide analysis of the impacts the BLM expects to occur as a result of the renewal of the leases under readjusted lease terms, and a comparison of those impacts to the impacts expected under the No-Action Alternative of renewal of the leases under their existing terms. The non-wilderness portions of the SNF have ongoing prospecting activities that include drilling, vehicle traffic, logging, and other sources of mechanical noise from mineral, timber, recreational, and other types of activities. The BLM decision to be made does not include a reauthorization of, or change to, any prior-approved plan of operations or authorization of on-the-ground activities for exploration and development of minerals on the leased lands. Approval of the revised lease terms (the Proposed Action) will not involve uncertain or unique or unknown risks, as the approval of the lease terms themselves does not allow any mining projects to proceed. Rather, if submitted in the future, the BLM and Forest Service will evaluate any mining project proposals, including a mining plan of operations for mining on the leases. That evaluation process will examine possible effects on the human environment from the proposed mining activities, and the BLM and Forest Service must ensure that any project meets all legal and regulatory requirements and appropriately mitigates environmental impacts. The revised

stipulations also allow the BLM to deny approval of a mining plan of operation that does not meet statutory and regulatory requirements.

6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

Due to the prior lease terms, the lessee has a non-discretionary right to this third renewal of the mineral leases. The BLM's decision analyzed in the EA is whether to issue the renewed leases with the same terms and conditions as the existing leases, under the No-Action Alternative, or whether to renew the leases with added and readjusted terms and conditions that the BLM and the Forest Service deem appropriate for the conservation and protection of natural and cultural resources.

The lessee has previously submitted, and the BLM previously approved, exploration plans of operations for exploration of minerals on the leased lands. However, this BLM decision does not include a reauthorization of or change to any prior-approved plan of operations or authorization of on-the-ground activities for exploration and development of minerals on the leased lands. Any future mining activities, not already authorized, will be subject to project-specific environmental analysis under the National Environmental Policy Act.

Under the Proposed Action, the lessee's right to mine and produce the minerals is contingent upon both the BLM and the Forest Service approving a mining plan of operations that meets all statutory and regulatory requirements and appropriately mitigates environmental impacts. In addition, the proposed stipulations also state that the BLM reserves the right to disapprove a mining plan of operation if it does not meet the requirements in the lease terms and the applicable statutes or regulations. Therefore, this action will not establish a precedent for future actions with significant effects and it does not represent a decision in principle about future projects.

7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*

The Proposed Action and the No-Action Alternative of the lease renewals share affected resources with other past, present and reasonably foreseeable future actions and are analyzed in Chapter 4 of the EA. The Proposed Action's incorporation of some additional protective stipulations, when considering other projects in the area, does not cumulatively create any greater negative effect on shared resources than would the No-Action Alternative. The Proposed Action may have a slightly more beneficial effect on shared resources than the No-Action Alternative, as is described in Chapter 3 of the EA. This action, therefore, does not add one more action with individually insignificant impacts to a group that when viewed together have cumulatively significant impacts.

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.*

Six known archaeological sites are located within or adjacent to the boundaries of leases MNES 01352 and MNES 01353. The Proposed Action would help the BLM to identify important cultural resources, in contrast to the No-Action Alternative. This is due primarily to the added



stipulations (in the Proposed Action) that enable direct tribal surveying of lands proposed for development and that allow tribal input into reclamation plans. Under either the Proposed Action or the No-Action Alternative, project activities must also abide by section S-HR-9 of the Forest Plan, which requires the use of buffers around known cultural resources. Therefore, this action will not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.

9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.*

Because the Proposed Action does not authorize any on-the-ground activities, the BLM made a determination that the Proposed Action of the lease renewals will have “no effect” on threatened and endangered species. The BLM shared this determination with the Fish and Wildlife Service (FWS) in compliance with the ESA Section 7. The FWS acknowledged the BLM’s determination.

10. *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

The Proposed Action is consistent with all Federal, State, and local laws. The Proposed Action itself does not authorize any mining activity. If, in the future, the lessee decides to further explore for or develop the mineral resources governed by these leases, the lessee will be required to submit a proposed mining plan of operation to the BLM. The proposed lease stipulations require that all operations must be done in accordance with an operating plan approved by both the BLM and Forest Service, and must be consistent with all applicable statutory and regulatory requirements, including all requirements deemed necessary to protect the lands and surface resources, including hydrological resources. Under the Proposed Action’s lease terms, the lessee’s right to mine and produce the minerals is contingent upon both the BLM and the Forest Service approving a mine plan of operations that meets all statutory and regulatory requirements and appropriately mitigates environmental impacts. Furthermore, the proposed stipulations also state that the BLM reserves the right to disapprove a mining plan of operation if it does not meet the requirements in the lease terms and the applicable statutes or regulations. Therefore, this action will not threaten a violation of Federal, State or local law or requirements imposed for the protection of the environment.

 
Dean Gettinger
District Manager
Northeastern States District

Stephanie Carman
for

15 May 2019
Date

PART 1. LEASE RIGHTS GRANTED.

This ☐ lease ☒ lease renewal entered into by and between the United States of America, hereinafter called lessor or BLM and (Name and Address)

Franconia Minerals (US) LLC
380 St. Peter Street Suite. 705
St. Paul, MN 55102

Hereinafter called lessee, is effective (date) June 1, 2019, for a period of 10 years,

Sodium, Sulphur, Hardrock –

- ☒ With a right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, including those conditions described in special stipulations in Section 14 below, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite –

- ☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each 10 year period, unless otherwise provided by law,

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

- ☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;
☐ Mineral Leasing Act of Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;
☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;
☒ (Other) 16 U.S.C. 508b, 16 U.S.C. 520; and to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease renewal issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits, nickel & associated minerals, hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

Fourth Principal Meridian, Minnesota

T. 61 N., R. 11 W.

sec. 3, lot 2, SW1/4SW1/4 and S1/2SE1/4;
sec. 5, lots 1, 2, 6 and 7, S1/2NE1/4, NE1/4SW1/4, S1/2SW1/4 and N1/2SE1/4;
sec. 6, lots 13, 22, 23 and 24;
sec. 7, lots 1 thru 4 and lots 9, 10, 12, 15, 16 and 19;
sec. 8, lots 2 and 6;
sec. 9, NE1/4, E1/2NW1/4 and S1/2;
sec. 18, lots 2, 7 and 9 and lots 12 thru 20;
sec. 19, lots 2 thru 5 and lots 7 and 8.

T. 62 N., R. 11 W.

sec. 27, SE1/4SW1/4;
sec. 32, lot 4;
sec. 33, lots 6 and 7;
sec. 34, NW1/4.

T. 61 N., R. 12 W.

sec. 25, lot 2 and SW1/4SW1/4.

containing 2609.72 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate –

- ☐ In accordance with section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing of refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

PART II. TERMS AND CONDITIONS

Sec. 1. (a) **RENTAL RATE** – Lessee must pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

Sulphur, Gilsonite –

☐ 50 cents for the first lease year and each succeeding lease year;

Hardrock –

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

Phosphate –

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

Potassium Sodium –

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases–

☒ \$1 _____ for each lease year:

(b) **RENTAL CREDITS** – The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) **PRODUCTION ROYALTIES** – Lessee must pay lessor a production royalty in accordance with the attached schedule (see Sections 14(f), 14(g) and 14(h)). Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

(b) **MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY** – (1) Lessee must produce on an annual basis a minimum amount of copper, nickel and associated hardrock minerals valued at \$206,196 except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the BLM may allow in writing the payment of a \$79.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments must be credited to production royalties for that year. If lessee has not commenced production in paying quantities by the end of this 10-year lease term, the lessor will increase the minimum annual royalty, at a minimum, to reflect the changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, at the time of the renewal.

Sec. 3. **REDUCTION AND SUSPENSION** – The lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty and reserves the authority to assent to or order the suspension of this lease, as the applicable regulations provide.

Sec. 4. **BONDS** – Lessee must maintain in the proper office a lease bond in the amount of \$5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The BLM may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. **DOCUMENTS, EVIDENCE AND INSPECTION** – At such times and in such form as lessor may prescribe, lessee must furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee must keep open at all reasonable times for the inspection of any duly prescribed employee of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee must either submit or provide lessor access to and free copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section must be closed to inspection by the public to the maximum extent allowed under the Freedom of Information Act (5 U.S.C. 552), or other federal law, provided the lessee has marked the information as “confidential” upon submission.

Sec. 6. **DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS** – Lessee must exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the applicable exploration and mining operations regulations, having due regard for the prevention of injury to life, health or property and of waste or damage to any water or mineral deposits.

Lessee must not conduct exploration or mining operations prior to receipt of necessary permits or approval of plans of operations by lessor (see Section 14(a) below).

Lessee must carry on all operations in accordance with approved methods and practices as provided in the applicable exploration and mining operations regulations, conditions described in the special stipulations in Section 14 below, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee must take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor will condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. **PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY** – Lessee must: pay when due all taxes and legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages

Attachment B: MNES - 01352

at least twice each month in lawful money of the United States; maintain a safe working environment in accordance applicable Federal and state statutes and regulations and with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years must be employed in any mine below the surface. To the extent that laws of the State in which the lands are situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee must comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Lessee and lessee's subcontractors are prohibited from having segregated facilities.

Sec. 8. (a) TRANSFERS – This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee must fulfill accrued obligations, but will be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. – At such time as all or portions of this lease are returned to lessor, lessee must deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 90 days of the date the lessee returns the leasehold to the lessor, the lessee must submit a schedule for how it will complete all reclamation work, to be approved by the lessor and the Forest Service. In accordance with the approved schedule, the lessee must remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the lessor. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond the approved

completion date or approved extension thereof, will become the property of the lessor, but lessee must either remove any or all such property or must continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor will waive the requirement for removal, provided the third parties do not object to such waiver.

Lessee must, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT – If lessee fails to comply with applicable laws, existing regulations, or the terms, conditions and stipulations of this lease, and noncompliance continues for 30 days after written notice thereof, this lease will be subject to cancellation by the lessor through judicial proceedings. This provision will not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver will not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST – Each obligation of this lease extends to and is binding upon, and every benefit hereof must inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION – Lessee must indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES – This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS

- a. Operations: Any and all operations to be conducted under this lease must be done in accordance with a plan of operations approved in writing by the lessor and the Forest Service before such operations begin, consistent with applicable agency regulations. The approved operating plan will include any appropriate provisions the lessor and the Forest Service determine are needed to maintain proper administration of the lands and surface resources, including hydrological resources. Any and all operations conducted in advance of approval of an original, revised, or amended operating plan, or which are not in accord with an approved plan, constitute violations of the terms of this lease.

Lessee's right to mine and produce the minerals is contingent upon both the lessor and the Forest Service approving a mine plan of operations that appropriately mitigates environmental impacts and the lessee's proper payment of production royalties on any extracted minerals. Lessor reserves the right to disapprove of the mine plan of operations if it does not meet the requirements in the lease terms and the applicable statutes and regulations.

b. Diligence and Renewal:

1. This lease is subject to the conditions of diligent development and continued operation, except during approved periods of suspension outlined below. By the end of this third 10-year renewal term, lessee will have completed the following: utilized the pre-application procedures to submit information needed by the lessor and Forest Service to evaluate the mine plan of operation; submitted a complete proposed mine plan of operation to the lessor with all necessary application data; obtained all necessary permits; submitted to the BLM a notice to proceed at least one month prior to mine construction; and have met the first set of project milestones for mine construction as outlined in the notice to proceed.
2. Lessee's failure to meet the diligence requirements on this lease by the end of the 10-year term provided for in this lease renewal will terminate the lease, and the lease will not be eligible for renewal. Payment of minimum royalty payments does not fulfill diligence requirements.
3. If the lessee is in compliance with the terms and stipulations set out in this lease at the end of the 10-year renewal period, including as may be extended through suspension, the lessor will renew the lease with any reasonable adjustment of terms, conditions, and stipulations that either the lessor or the Forest Service deem appropriate.

c. Suspension:

1. The lessor may suspend the lease term in the interest of conservation of mineral resources; to encourage the greatest ultimate recovery of the mineral resource; as necessary to either promote development of the mineral resources or because the lessee cannot successfully operate the lease under existing terms for reasons beyond the control of the lessee; and when there are interruptions due to strikes, the elements, and causalities not attributable to the lessee.
2. The lessor will suspend the lease for the following reasons: court-ordered stays; the time, beyond 90 days, that it takes the lessor or Forest Service to respond to

- the information submitted, including during the pre-application process, or the time, beyond 90 days, that the applicant is required to spend collecting additional data that the lessor or Forest Service determines is necessary for processing any permit, application or plan; the time it takes the agencies beyond one year (beginning on the date the notice of intent is published in the Federal Register) to complete an environmental review of and decision on a proposed mine plan of operation, prepared in accordance with the *National Environmental Policy Act of 1969* and other environmental laws; or the time (beyond the foregoing one year) it takes for the State or other Federal agencies or local jurisdictions to issue necessary permits and approvals.
3. The period of suspension will end after termination of the event that necessitated the suspension.
 4. Except for any delay caused by the lessee, the lessor will extend the lease term by any periods of suspension(s) under this provision.
 5. During any period of suspension, the lessee will continue to pay the minimum royalties and rentals established by Section 2.
- d. Integration: This lease agreement as written constitutes the entire agreement between the parties and supersedes any and all prior lease agreements.
- e. Tribal Historic Preservation Obligations: The leases are located within the 1854 ceded territory where the Bois Fort Band of Chippewa, the Grand Portage Band of Lake Superior Chippewa, and the Fond du Lac Band of Lake Superior Chippewa reside and retain usufructuary rights. Prior to authorizing any ground disturbance, the BLM and/or Forest Service will notify these three Chippewa Bands about the proposed project and allow the Bands 45 days to coordinate and schedule the completion of cultural surveys from a Native American perspective, within a reasonable timeframe that the BLM and/or Forest Service may determine. The BLM and/or Forest Service will consider the results of the cultural surveys completed by the Bands along with archaeological and historical inventories and incorporate the results, as necessary, into the National Historic Preservation Act Section 106 and National Environmental Policy Act review processes. Prior to approving interim or final reclamation activities, the authorizing agency will invite the Bands to recommend reasonable reclamation practices, such as plant species to establish, that may enhance the Bands' use of the reclaimed land.
- f. Royalty Schedule: Lessee must pay lessor a production royalty of six percent (6%) of the gross value of the minerals mined and shipped to the concentrating mill. The gross value of the minerals mined hereunder and shipped to the concentrating mill shall be: one third (1/3) of the market prices of a quantity of fully-refined copper, nickel, and associated minerals equal to the respective quantities of unrefined copper, nickel, and associated minerals contained in said minerals so shipped to the concentrating mill.
- g. Future Royalty Schedule: If the lessee is eligible for renewal under the terms, conditions and stipulations of this lease, the lessor intends at the next renewal to impose a royalty of four and one half percent (4 ½%) of the gross value of the minerals produced at the first

point of shipment to market. The gross value of the minerals mined under the future royalty rate schedule at the point of shipment to market shall be:

1. The price paid to the lessee under bona fide transactions with independent parties for concentrations produced from ore mined under these leases, less lessee's cost of transportation charges in effect at the time of shipment from place of origin of the concentrates to the smelter; or
 2. When concentrates are processed for the lessee's account at its own (captive) or any other smelter, such gross value shall be determined by the metal price received for metal sold by the lessee in bona fide transactions with independent parties for the period prescribed in the lease, less an allowance for average freight and federal taxes thereon from the trading smelter to designations to which metal was shipped by the lessee, and less all of the lessee's costs and charges during such period in connection with lessee's shipping, smelting, refining, handling, and selling all concentrates and of all metal produced therefrom.
- h. Overriding Royalties: In preparation for the Future Royalty Schedule, the lessee agrees to address the existence of overriding royalties in excess of those that the lessee can sustain and still mine the mineral resources in the interest of conservation of the mineral resources. Lessee will submit the necessary information to the BLM to address the existing overriding royalties under the BLM's regulations in 43 CFR Part 3500 within 180 days of the execution of this lease.
- i. Surface Stipulations:

The Lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of the Interior in this lease. Subject to the terms and conditions of Paragraphs 1-8 below, the Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of an operation plan, (2) uses of all existing improvements, such as Forest development roads, within and outside the area leased by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by an approved operating plan. All matters related to these stipulations are to be addressed to Superior National Forest, Forest Supervisor at 8901 Grand Ave. Place, Duluth, MN 55808-1122, and telephone number (218) 626-4300.

1. OCCUPANCY AND USE OF NFS LAND WITHIN THE LEASE AREA

With respect to exercising rights under this lease, the lessee shall not occupy or use NFS land and waters within the lease area, except for:

- a) Vent shafts or human escape routes, which, as determined by an approved operating plan, must be located on NFS land in order to comply with applicable Federal or State law, regulation, or other requirement;
- b) Resource monitoring to assess impacts from the lessee's activities under this lease upon NFS land and waters, which monitoring is required by an approved

- operating plan, or as may otherwise be required by the BLM, Forest Service, or state or Federal agencies which regulate mining operations or pollution control;
- c) Technical investigations, including, but not limited to geophysical surveys, resource surveys, geotechnical investigations, hydrogeological testing, and resource monitoring, consistent with rights granted under this lease, to collect information and data, determined by the BLM and Forest Service to be reasonably necessary for the development and implementation of a mine plan of operations ("MPO") or to conduct environmental review, surveys, or other documentation in order to comply with applicable law necessary for any approval of the MPO, or as necessary for any activities approved by an MPO; and
 - d) NFS land and water use or occupancy approved by the Forest Service and BLM in an MPO.

Provided, that such occupancy and use shall: (1) be placed on the surface at locations, including the geographical extent, acceptable to the Forest Service; and (2) comply with applicable requirements of the Superior National Forest's Land and Resource Management Plan ("Forest Plan"), then in effect; and any other terms and conditions, including, but not limited to, those related to reclamation, as prescribed by the Forest Service and which are reasonably necessary in order to protect Superior National Forest (SNF) resources and uses. Such location acceptability, Forest Plan requirements, and other terms and conditions mentioned in this paragraph, may be made a part of an operating plan approved under this lease or, as appropriate, other applicable instrument of authorization issued by the BLM, Forest Service, or other Federal or state agency. Occupancy and use as addressed by this paragraph, includes, but is not limited to, access within the lease area via roads or otherwise, to the extent such occupancy and use meets the requirements of this paragraph. As determined by the Forest Service, areas of occupancy and use may be considered exclusive, in whole or in part, so as to protect the health and safety of Forest Service employees, permittees, and contractors, as well as members of the public using NFS land and waters. In such a case, the Forest Service may also prescribe additional terms and conditions, with which the lessee must comply, in order to specifically address such health and safety concerns. Outside of areas of exclusive use, the Forest Service may exercise its authorities under Federal law, to manage and use NFS land and waters located within the lease area, for National Forest purposes, including but not limited to, allowing public use.

2. OCCUPANCY AND USE OF NFS LAND OUTSIDE THE LEASE AREA

The use of NFS land located outside of the lease area, if any, including but not limited to, access to the lease area by the lessee, shall be governed by and subject to approval of the Forest Service pursuant to Forest Service decision-making authorities, under applicable Federal law and regulations.

3. GENERAL PROTECTIONS FOR FOREST RESOURCES AND USES

In addition to any terms and conditions prescribed under Paragraph 1, in exercising rights under this lease, including the implementation of any approved operating plan, without regard to the location of the lessee's operation or activity, the lessee shall comply with all reasonable terms and conditions prescribed by the Forest Service. The Forest Service

terms and conditions may be included within any approved operation plan, or other applicable instrument of authorization, and shall ensure the adequate protection and utilization of NFS lands and waters, consistent with applicable management direction of the Superior National Forest's Land and Resource Management Plan, then in effect.

4. WATER USES

The United States retains its landownership rights, including riparian and littoral rights, to groundwater and surface water resources. This lease does not give the lessee any right to use, or otherwise disrupt the natural flow or presence of, surface water or groundwater flowing through, present upon, or contained within, NFS land. Such use, or disruption, may only be made with prior authorization of the Forest Service, in accord with its applicable decision-making procedures; and such authorization as may be otherwise required by applicable Federal, state, or local law. All activities conducted pursuant to any Forest Service authorization shall comply with all applicable Federal, state, and local laws and regulatory requirements respecting the use.

5. WATER QUALITY

Any authorization or approval of an MPO, as well as any other Forest Service authorization or approval under, or connected with, this lease, shall not be granted before the lessee presents the authorizing official with either a copy of any required certification pursuant to Section 401 of the Clean Water Act (33 USC 1341) or acceptable evidence that the appropriate entity waived this certification requirement.

6. SURFACE PROTECTION

The United States does not waive its real property right of subjacent support in the NFS land. To the extent allowed by applicable law, the lessee shall be liable to the United States for any damages due to caving or subsidence of the surface on NFS lands which is caused by operations under this lease. Additionally, this lease does not authorize the mining or removal of the mineral deposits by stripping, rim cutting, or open pit methods.

7. BONDING

The lessee shall comply with all bond requirements as may be prescribed by the Forest Service, in order to ensure adequate protection and utilization of NFS land and waters. To the extent consistent with applicable federal authorities, the Forest Service and BLM will coordinate so as to avoid duplicative bonding requirements.

8. FOREST SERVICE CONSENT ON RENEWAL

The Forest Service reserves its consent authority. However, if the lessee is in full compliance with the terms and conditions of this lease, the Forest Service will provide consent to a renewal, subject to any reasonable adjustments as described in Section 14.

THE UNITED STATES OF AMERICA

By

(Company or Lessee Name)

(Signing Officer's Printed Name)

(Signature of Lessee)

(Signing Officer)

(Title)

(Title)

(Date)

(Date)

Title 18 U.S.C. Section 1001 makes it a crime for any person knowingly and willfully to make to any department or
agency of the United
States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

Attachment B: MNES - 01352

NOTICES

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished with the following information required by this application.

AUTHORITY: 30 U.S.C. 181 et seq., 43 U.S.C. 3500

PRINCIPAL PURPOSE: The BLM will use the information you provide to verify your compliance with lease terms.

ROUTINE USES: In accordance with the System of Records titled, "Land and Minerals Authorization Tracking System—Interior, LLM-32," disclosure outside the Department of the Interior may be made: (1) To appropriate Federal agencies when concurrence or supporting information is required prior to granting or acquiring a right or interest in lands or resources, (2) To Federal, State, or local agencies or a member of the general public in response to a specific request for pertinent information, (3) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled, (4) To an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation, (5) To a member of Congress or a Congressional staff member from the record of an individual in response to an inquiry made at the request of that individual, (6) To the Department of the Treasury to effect payment to Federal, State, and local government agencies, nongovernmental organizations, and individuals, and (7) To individuals involved in responding to a breach of Federal data. The BLM will only disclose this information in accordance with the Freedom of Information Act, the Privacy Act, and the provision in 43 CFR 2.56(c).

EFFECT OF NOT PROVIDING INFORMATION: Filing of the information is required to obtain and keep a benefit. If you do not provide the information, BLM may seek to cancel your lease.

The Paperwork Reduction Act of 1995 requires us to inform you that:

The BLM collects this information to comply with the regulations at 43 CFR 3500, which implement the provisions of the Mineral Leasing Act of 1920, as amended; the Mineral Leasing Act for Acquired Lands of 1947; Section 402 of Reorganization Plan No. 3 of 1946; or other special leasing acts. The BLM uses the information to verify that you are complying with lease terms.

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The BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

BURDEN HOURS STATEMENT: Public reporting burden for this form is estimated to average 300 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to: U.S. Department of the Interior, Bureau of Land Management (1004-0121), Bureau Information Collection Clearance Officer (WO-630), 1849 C Street, N.W., Room 2134 LM, Washington, D.C. 20240.

PART 1. LEASE RIGHTS GRANTED.

This ☐ lease ☒ lease renewal entered into by and between the United States of America, hereinafter called lessor or BLM and (Name and Address)

Franconia Minerals (US) LLC
380 St. Peter Street Suite. 705
St. Paul, MN 55102

Hereinafter called lessee, is effective (date) June 1, 2019, for a period of 10 years,

Sodium, Sulphur, Hardrock –

- ☒ With a right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, including those conditions described in special stipulations in Section 14 below, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite –

- ☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each 10 year period, unless otherwise provided by law,

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

- ☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;
☐ Mineral Leasing Act of Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;
☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;
☒ (Other) 16 U.S.C. 508b, 16 U.S.C. 520; and to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease renewal issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits, nickel & associated minerals, hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

Fourth Principal Meridian, Minnesota

T. 62 N., R. 10 W.

- sec. 19, that portion outside the Boundary Waters Canoe Area Wilderness;
 sec. 20, SW1/4;
 sec. 29, N1/2;
 sec. 30, lot 3 and N1/2.

T. 62 N., R. 11 W.

- sec. 24, lot 7, SE1/4SW1/4 and S1/2SE1/4;
 sec. 25, N1/2, W1/2SW1/4 and NE1/4SE1/4;
 sec. 26, S1/2NE1/4, NE1/4SW1/4 and E1/2SE1/4.

containing 2332.71 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate –

- ☐ In accordance with section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing of refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE – Lessee must pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

Sulphur, Gilsonite –

☐ 50 cents for the first lease year and each succeeding lease year;

Hardrock –

\$1 for the first lease year and \$1 for each succeeding lease year;

Phosphate –

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

Potassium Sodium –

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases–

☒ \$1 _____ for each lease year;

(b) RENTAL CREDITS – The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) PRODUCTION ROYALTIES – Lessee must pay lessor a production royalty in accordance with the attached schedule (see Sections 14(f), 14(g), and 14(h)). Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands:

(b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY – (1) Lessee must produce on an annual basis a minimum amount of copper, nickel and associated hardrock minerals valued at \$206,269 except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the BLM may allow in writing the payment of a \$79.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments must be credited to production royalties for that year. If lessee has not commenced production in paying quantities by the end of this 10-year lease term, the lessor will increase the minimum annual royalty, at a minimum, to reflect the changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, at the time of the renewal, and may further increase the minimum annual royalty as the lessor deems reasonable given the length of time the lease has been held without production.

Sec. 3. REDUCTION AND SUSPENSION – The lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty and reserves the authority to assent to or order the suspension of this lease, as the applicable regulations provide.

Sec. 4. BONDS – Lessee must maintain in the proper office a lease bond in the amount of \$5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The BLM may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION – At such times and in such form as lessor may prescribe, lessee must furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee must keep open at all reasonable times for the inspection of any duly prescribed employee of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee must either submit or provide lessor access to and free copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section must be closed to inspection by the public to the maximum extent allowed under the Freedom of Information Act (5 U.S.C. 552), or other federal law, provided the lessee has marked the information as “confidential” upon submission.

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS – Lessee must exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the applicable exploration and mining operations regulations, having due regard for the prevention of injury to life, health or property and of waste or damage to any water or mineral deposits.

Lessee must not conduct exploration or mining operations prior to receipt of necessary permits or approval of plans of operations by lessor (see Section 14(a) below).

Lessee must carry on all operations in accordance with approved methods and practices as provided in the applicable exploration and mining operations regulations, conditions described in the special stipulations in Section 14 below, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee must take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor will condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY – Lessee must: pay when due all taxes and legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States;

Attachment B: MNES - 01353

maintain a safe working environment in accordance applicable Federal and state statutes and regulations and with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No

Lessee must comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Lessee and lessee's subcontractors are prohibited from having segregated facilities.

Sec. 8. (a) TRANSFERS – This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee must fulfill accrued obligations, but will be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. – At such time as all or portions of this lease are returned to lessor, lessee must deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 90 days of the date the lessee returns the leasehold to the lessor, the lessee must submit a schedule for how it will complete all reclamation work, to be approved by the lessor and the US Forest Service. In accordance with the approved schedule, the lessee must remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by BLM. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond the approved completion date or approved extension thereof, will become the property of the lessor, but lessee must either remove any or all such property or must continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor will waive the requirement for removal, provided the third parties do not object to such waiver.

person under the age of 16 years must be employed in any mine below the surface. To the extent that laws of the State in which the lands are situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee must, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT – If lessee fails to comply with applicable laws, existing regulations, or the terms, conditions and stipulations of this lease, and noncompliance continues for 30 days after written notice thereof, this lease will be subject to cancellation by the lessor through judicial proceedings. This provision will not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver will not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST – Each obligation of this lease extends to and is binding upon, and every benefit hereof must inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION – Lessee must indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES – This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS

- a. Operations: Any and all operations to be conducted under this lease must be done in accordance with a plan of operations approved in writing by the lessor and the Forest Service before such operations begin, consistent with applicable agency regulations. The approved operating plan will include any appropriate provisions as the lessor and the Forest Service determine are needed to maintain proper administration of the lands and surface resources, including hydrological resources. Any and all operations conducted in advance of approval of an original, revised, or amended operating plan, or which are not in accord with an approved plan, constitute violations of the terms of this lease.

Lessee's right to mine and produce the minerals is contingent upon both the lessor and the Forest Service approving a mine plan of operations that appropriately mitigates environmental impacts and the lessee's proper payment of production royalties on any extracted minerals. Lessor reserves the right to disapprove of the mine plan of operations if it does not meet the requirements in the lease terms and the applicable statutes and regulations.

- b. Diligence: Lessee's failure to meet the diligence requirements in lease MNES-01352 by the end of the 10-year term provided under sections 14(b) and (c) of lease MNES-01352 will terminate both lease MNES-01352 and this lease, MNES-01353, and this lease will not be eligible for renewal.
- c. Renewal: If lessee meets the diligence requirements and is in compliance with all the terms and stipulations in lease MNES-01352 at the end of the 10-year renewal period, including as may be extended through suspension, the lessor will renew this MNES-01353 lease with any reasonable adjustment of terms, conditions, and stipulations that either the lessor or the Forest Service deem appropriate.
- d. Integration: This lease agreement as written constitutes the entire agreement between the parties and supersedes any and all prior lease agreements.
- e. Tribal Historic Preservation Obligations: The leases are located within the 1854 ceded territory where the Bois Fort Band of Chippewa, the Grand Portage Band of Lake Superior Chippewa, and the Fond du Lac Band of Lake Superior Chippewa reside and retain usufructuary rights. Prior to authorizing any ground disturbance, the BLM and/or Forest Service will notify these three Chippewa Bands about the proposed project and allow the Bands 45 days to coordinate and schedule the completion of cultural surveys from a Native American perspective, within a reasonable timeframe that the BLM and/or Forest Service may determine. The BLM and/or Forest Service will consider the results of the cultural surveys completed by the Bands along with archaeological and historical inventories and incorporate the results, as necessary, into the National Historic Preservation Act Section 106 and National Environmental Policy Act review processes. Prior to approving interim or final reclamation activities, the authorizing agency will invite the Bands to recommend reasonable reclamation practices, such as plant species to establish, that may enhance the Bands' use of the reclaimed land.

- f. Royalty Schedule: Lessee must pay lessor a production royalty of six percent (6%) of the gross value of the minerals mined and shipped to the concentrating mill. The gross value of the minerals mined hereunder and shipped to the concentrating mill shall be: one third (1/3) of the market prices of a quantity of fully-refined copper, nickel, and associated minerals equal to the respective quantities of unrefined copper, nickel, and associated minerals contained in said minerals so shipped to the concentrating mill.
- g. Future Royalty Schedule: If the lessee is eligible for renewal under the terms, conditions and stipulations of this lease, the lessor intends at the next renewal to impose a royalty of four and one half percent (4 ½%) of the gross value of the minerals produced at the first point of shipment to market. The gross value of the minerals mined under the future royalty rate schedule at the point of shipment to market shall be:
1. The price paid to the lessee under bona fide transactions with independent parties for concentrations produced from ore mined under these leases, less lessee's cost of transportation charges in effect at the time of shipment from place of origin of the concentrates to the smelter; or
 2. When concentrates are processed for the lessee's account at its own (captive) or any other smelter, such gross value shall be determined by the metal price received for metal sold by the lessee in bona fide transactions with independent parties for the period prescribed in the lease, less an allowance for average freight and federal taxes thereon from the trading smelter to designations to which metal was shipped by the lessee, and less all of the lessee's costs and charges during such period in connection with lessee's shipping, smelting, refining, handling, and selling all concentrates and of all metal produced therefrom.
- h. Overriding Royalties: In preparation for the Future Royalty Schedule, the lessee agrees to address the existence of overriding royalties in excess of those that the lessee can sustain and still mine the mineral resources in the interest of conservation of the mineral resources. Lessee will submit the necessary information to the BLM to address the existing overriding royalties under the BLM's regulations in 43 CFR Part 3500 within 180 days of the execution of this lease.
- i. Surface Stipulations:

The Lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of the Interior in this lease. Subject to the terms and conditions of Paragraphs 1-8 below, the Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of an operation plan, (2) uses of all existing improvements, such as Forest development roads, within and outside the area leased by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by an approved operating plan. All matters related to these stipulations are to be addressed

to Superior National Forest, Forest Supervisor at 8901 Grand Ave. Place, Duluth, MN 55808-1122, and telephone number (218) 626-4300.

1. OCCUPANCY AND USE OF NFS LAND WITHIN THE LEASE AREA

With respect to exercising rights under this lease, the lessee shall not occupy or use NFS land and waters within the lease area, except for:

- a) Vent shafts or human escape routes, which, as determined by an approved operating plan, must be located on NFS land in order to comply with applicable Federal or State law, regulation, or other requirement;
- b) Resource monitoring to assess impacts from the lessee's activities under this lease upon NFS land and waters, which monitoring is required by an approved operating plan, or as may otherwise be required by the BLM, Forest Service, or state or Federal agencies which regulate mining operations or pollution control;
- c) Technical investigations, including, but not limited to geophysical surveys, resource surveys, geotechnical investigations, hydrogeological testing, and resource monitoring, consistent with rights granted under this lease, to collect information and data, determined by the BLM and Forest Service to be reasonably necessary for the development and implementation of a mine plan of operations ("MPO") or to conduct environmental review, surveys, or other documentation in order to comply with applicable law necessary for any approval of the MPO, or as necessary for any activities approved by an MPO; and
- d) NFS land and water use or occupancy approved by the Forest Service and BLM in an MPO.

Provided, that such occupancy and use shall: (1) be placed on the surface at locations, including the geographical extent, acceptable to the Forest Service; and (2) comply with applicable requirements of the Superior National Forest's Land and Resource Management Plan ("Forest Plan"), then in effect; and any other terms and conditions, including, but not limited to, those related to reclamation, as prescribed by the Forest Service and which are reasonably necessary in order to protect Superior National Forest (SNF) resources and uses. Such location acceptability, Forest Plan requirements, and other terms and conditions mentioned in this paragraph, may be made a part of an operating plan approved under this lease or, as appropriate, other applicable instrument of authorization issued by the BLM, Forest Service, or other Federal or state agency. Occupancy and use as addressed by this paragraph, includes, but is not limited to, access within the lease area via roads or otherwise, to the extent such occupancy and use meets the requirements of this paragraph. As determined by the Forest Service, areas of occupancy and use may be considered exclusive, in whole or in part, so as to protect the health and safety of Forest Service employees, permittees, and contractors, as well as members of the public using NFS land and waters. In such a case, the Forest Service may also prescribe additional terms and conditions, with which the lessee must comply, in order to specifically address such health and

safety concerns. Outside of areas of exclusive use, the Forest Service may exercise its authorities under Federal law, to manage and use NFS land and waters located within the lease area, for National Forest purposes, including but not limited to, allowing public use.

2. OCCUPANCY AND USE OF NFS LAND OUTSIDE THE LEASE AREA

The use of NFS land located outside of the lease area, if any, including but not limited to, access to the lease area by the lessee, shall be governed by and subject to approval of the Forest Service pursuant to Forest Service decision-making authorities, under applicable Federal law and regulations.

3. GENERAL PROTECTIONS FOR FOREST RESOURCES AND USES

In addition to any terms and conditions prescribed under Paragraph 1, in exercising rights under this lease, including the implementation of any approved operating plan, without regard to the location of the lessee's operation or activity, the lessee shall comply with all reasonable terms and conditions prescribed by the Forest Service. The Forest Service terms and conditions may be included within any approved operation plan, or other applicable instrument of authorization, and shall ensure the adequate protection and utilization of NFS lands and waters, consistent with applicable management direction of the Superior National Forest's Land and Resource Management Plan, then in effect.

4. WATER USES

The United States retains its landownership rights, including riparian and littoral rights, to groundwater and surface water resources. This lease does not give the Lessee any right to use, or otherwise disrupt the natural flow or presence of, surface water or groundwater flowing through, present upon, or contained within, NFS land. Such use, or disruption, may only be made with prior authorization of the Forest Service, in accord with its applicable decision-making procedures; and such authorization as may be otherwise required by applicable Federal, state, or local law. All activities conducted pursuant to any Forest Service authorization shall comply with all applicable Federal, state, and local laws and regulatory requirements respecting the use.

5. WATER QUALITY

Any authorization or approval of an MPO, as well as any other Forest Service authorization or approval under, or connected with, this lease, shall not be granted before the lessee presents the authorizing official with either a copy of any required certification pursuant to Section 401 of the Clean Water Act (33 USC 1341) or acceptable evidence that the appropriate entity waived this certification requirement.

6. SURFACE PROTECTION

The United States does not waive its real property right of subjacent support in the NFS land. To the extent allowed by applicable law, the lessee shall be liable to the United States for any damages due to caving or subsidence of the surface on NFS

lands which is caused by operations under this lease. Additionally, this lease does not authorize the mining or removal of the mineral deposits by stripping, rim cutting, or open pit methods.

7. BONDING

The lessee shall comply with all bond requirements as may be prescribed by the Forest Service, in order to ensure adequate protection and utilization of NFS land and waters. To the extent consistent with applicable federal authorities, the Forest Service and BLM will coordinate so as to avoid duplicative bonding requirements.

8. FOREST SERVICE CONSENT ON RENEWAL

The Forest Service reserves its consent authority. However, if the lessee is in full compliance with the terms and conditions of this lease, the Forest Service will provide consent to a renewal, subject to any reasonable adjustments as described in Section 14.

THE UNITED STATES OF AMERICA

By

(Company or Lessee Name)

(Signing Officer's Printed Name)

(Signature of Lessee)

(Signing Officer)

(Title)

(Title)

(Date)

(Date)

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